

Bil-Mar Foods of Ohio, Inc. and United Food and Commercial Workers Union, Local 200, AFL-CIO, Petitioner. Case 8-RC-12281

May 1, 1981

**DECISION AND DIRECTION OF
SECOND ELECTION**

The National Labor Relations Board has considered the Petitioner's objections to an election¹ held on December 4, 1980, and the Regional Director's report recommending disposition of same. The Board has reviewed the record in light of the exceptions² and brief, and hereby adopts the Regional Director's findings and recommendations.

In a letter dated November 6, 1980, the Employer made the following statement to employees:

If you are harassed, coerced, pressured or threatened in any way by union agents or pushers, either at work or at home, please let me, your supervisor, or Gladys know immediately. You do not have to tolerate it and we will see that it is stopped.

The Regional Director, relying on *Dillman Foods, Inc.*, 253 NLRB No. 114 (1980), found that this statement was objectionable as it, in effect, directed employees to inform on their coworkers who might have been soliciting support for the Union and thereby created a chilling effect on employees' union activity. The Employer contends that *Dillman* is distinguishable on its facts, and that *H. R. Huntting Co., Inc.*, a decision not published in the Board's bound volumes but reported at 60 LRRM 1514 (1965), compels the finding that the above statement is not objectionable. We agree with the Employer's contention that *Dillman* may be factually distinguished as it involved an employer's request that employees report anyone pursuing them to sign a union card, which occurred in the context of other unfair labor practices. However, we disagree with the contention that *H. R. Huntting* is

controlling. That case involved an employer's statement in a leaflet to employees requesting employees to report any "pressure" to vote for the union. The Board found that the statement was not objectionable, construing it as "simply an admonition to report any coercive conduct by union adherents in order to uphold the employees' right freely to exercise their voting privileges." While this holding, standing alone, would appear to support the Employer's position, we note that a long line of cases published after *H. R. Huntting* reached a different conclusion regarding employer requests to report instances of union "pressure," "harassment," and the like.

Thus in *J. H. Block & Co., Inc.*, 247 NLRB 262 (1980), the Board, applying a rationale identical to that used by the Regional Director in the instant case, found that the employer's request that employees report instances in which they were "put under pressure to join the union" was violative of Section 8(a)(1) of the Act. The Board asserted that the employer's statement had "the potential dual effect of encouraging employees to report to Respondent the identity of union card solicitors who in any way approach employees in a manner subjectively offensive to the solicited employees, and of correspondingly discouraging card solicitors in their protected organizational activities." The Board went on to state that it has consistently found such broadly worded instructions to employees to be unlawful, citing cases so holding from 1971 to 1979. See *J. H. Block, supra*. These cases, all of which were published in the Board's bound volumes, overwhelmingly support the Regional Director's conclusion in the instant case, the Employer's exception and adopt the Regional Director's recommendation that Petitioner's Objection 12 be sustained.³

[Direction of Second Election and *Excelsior* footnote omitted from publication.]

¹ The election was conducted pursuant to a Stipulation for Certification Upon Consent Election. The tally was 25 votes for, and 68 against, Petitioner; there were 5 challenged ballots, an insufficient number to affect the results.

² In the absence of exceptions, we adopt, *pro forma*, the Regional Director's recommendations that Petitioner's Objections 10, 11, and 21 be overruled, and that Petitioner's request to withdraw Objections 1 through 9 and 13, 14, 18, 19, and 23 through 26, be granted.

³ In adopting the Regional Director's recommendation concerning Objection 12, we find it unnecessary to pass upon his finding that the letter referred to in that objection tended to create an impression of surveillance. In view of our adoption of the Regional Director's recommendation that Petitioner's Objections 12 and 20 be sustained, we find it unnecessary to pass upon the alternative recommendation that the issues raised by Petitioner's Objections 15, 16, 17, 22, and unnumbered objections can best be resolved by a hearing. The Employer's exceptions raise no substantial or material issues of fact or law which warrant reversal of the Regional Director's recommendations or require a hearing.